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2009
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Revocation of the Option to Tax

Until 1 August 1989 supplies of land and buildings, including both freehold sales and leasing, were exempt from VAT. From this date you were able to opt to tax commercial property and charge VAT on the sale proceeds or rents. This enabled you to recover VAT arising on expenses relating to that property.

Once in place the option remained effective for 20 years subject to a 6 month initial cooling off period, meaning for those who opted to tax in 1989 the opportunity has now arisen to consider whether you should revoke the option.

Before revoking the option businesses should consider the effect of such action on existing and potential tenants. For example, you may have to increase service charges to cover the VAT which is no longer recoverable.

In addition, once revoked the letting or sale of the property will be an exempt supply meaning the business becomes fully or partially exempt for VAT purposes with the appropriate restriction on VAT recovery.

If you do decide to revoke your option you should also consider your insurance cover. As you were previously able to recover the VAT relating to the property there was no need to include VAT in the sum insured. Once the option is revoked you will not be able to recover the VAT on rebuilding or reconstruction possibly resulting in a shortfall in your insurance.

Revoking the option

To revoke the option consent must be sought from HM Revenue & Customs. Consent may be granted automatically if a number of conditions are met. Alternatively HM Revenue & Customs permission must be sought.

Automatic consent

The first condition for automatic consent is that you no longer have any interest, right over or license to occupy the property or any part of it.

If you do retain an interest in the property there are four conditions to be met before automatic consent will be granted.

1. You, or an associate, have held an interest in the property for more than 20 years since the option was made.
2. The property is not subject to the Capital Goods Scheme.
3. In the last 10 years no supplies of the property have been made for less than market value, nor have you entered into any arrangement which provides for the consideration to be increased after the option has been revoked.
4. No pre-payments for goods or services have been made which relate to any supply or other use of the property to be made after the option has been revoked.

If one or more of the automatic consent conditions are not met, provided you have held an interest in the property for at least 20 years, permission to revoke can be requested from HM Revenue & Customs.

HM Revenue & Customs have stated that where permission is applied for they will review the condition(s) which have not been met and will consider whether the trader, or a third party, will receive a VAT benefit as a result of the trader's actions before agreeing to the revocation.

If you wish to discuss revoking an option to tax or require any further information please contact your normal Scrutton Bland contact or one of the following:

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If you wish to discuss your insurance cover or requirements please contact:

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